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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/225,245	01/04/99	TOMOE N	1137-761

EXAMINER

WM02/0314

ROTHWELL FIGG ERNST & KURZ
555 13TH STREET NW
WASHINGTON DC 20004

VO,N

ART UNIT	PAPER NUMBER
2682	5

DATE MAILED:
03/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/225,245	TOMOE, NAOHITO	
	Examiner	Art Unit	
	Nguyen T Vo	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1)☒ Responsive to communication(s) filed on *12 January 2001* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *10 and 11* is/are allowed.

6)☒ Claim(s) *1,2,12 and 13* is/are rejected.

7)☒ Claim(s) *3-9 and 14-20* is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)☐ All b)☐ Some * c)☐ None of the CERTIFIED copies of the priority documents have been:

1.☐ received.

2.☐ received in Application No. (Series Code / Serial Number) _____ .

3.☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

14) ☐ Notice of References Cited (PTO-892)
15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
17) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
18) ☐ Notice of Informal Patent Application (PTO-152)
19) ☐ Other: .

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 01/12/01. Claims 1-20 are now pending in the present application. This action is made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimi (5,603,093) in view of the prior art of figure 11 as admitted by applicant on pages 1-5 of the present specification.

As to claims 1-2, 12-13, Yoshimi discloses an interference wave detecting device wherein when the interference wave is detected in a zone of a base station, the transmission of the base station is stopped so that the interference wave are detected more accurately (see column 1 lines 60-67, column 2 lines 1-12). Yoshimi, however, fails to expressly disclose transmitting means, receiving means as recited in the claim. The admitted prior art discloses an interference wave detecting device which is disposed at a base station and comprises transmitting means and receiving means (see figure 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of disposing the

interference wave detecting device at a base station, wherein the detecting device has transmitting and receiving means, as taught by the admitted prior art to Yoshimi, in order to reduce the implementing cost as well as system complexity.

Allowable Subject Matter

4. Claims 3-9, 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 3-6, 14-17, the cited prior art fail to disclose causing the transmitting means to stop transmitting the radio signal only when the transmitting means is transmitting one or more continuous null time slots of the radio signal as specified in the claim.

As to claims 7-8, 18-19, the cited prior art fail to disclose detecting an interference wave signal as specified in the claims.

As to claims 9, 20, the cited prior art fail to disclose test signal as specified in the claim.

5. Claims 10-11 are allowed.

As to claim 10, the cited prior art fail to disclose an interference wave detecting device as specified in the claim.

Response to Arguments

6. Applicant's arguments filed 01/12/2001 have been fully considered but they are not persuasive.

Regarding claims 1-2, 12-13, applicant argues that Yoshimi does not teach an interference wave detecting means which can be disposed at a base station and which can detect the interference waves on the downlink channel (see applicant's response, page 3). In response, the examiner believes that the admitted prior art does teach an interference wave detecting means which can be disposed at a base station (see page 1 lines 9-12). Yoshimi discloses detecting the interference waves on the downlink channel (see column 2 lines 1-6 which discloses "to measure the field intensity of radio waves that are caused to radiate one by one **from other base stations**"). Therefore, the combination of Yoshimi and the admitted prior art does teach the claimed limitation. Hence, applicant's argument is moot. In addition, it is noted that the features upon which applicant relies (i.e., which can detect the interference waves **on the downlink channel from the base station to the mobile station**. See applicant's response, page 3) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further argues that the admitted prior art has no means for detecting the level of interference waves on the downlink channel from the base station to the mobile station (see applicant's response, page 3). In response, the examiner believes that Yoshimi does disclose detecting the interference waves on the downlink channel from the base station to the mobile station as discussed above. Therefore, the combination of Yoshimi and the admitted prior art does teach the claimed limitation. Hence, applicant's argument is moot. In addition, it is noted that the features upon which applicant relies (i.e., detecting the level of the interference waves **on**

the downlink channel from the base station to the mobile station.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further argues that Yoshimi fails to disclose stopping transmission of radio signal for the purpose of detecting an interference signal (see applicant's response, page 4). The examiner, however, disagrees. Applicant's attention is directed to **Yoshimi, column 1 lines 60-67, column 2 lines 6-12 which discloses an interference wave detecting device wherein when the interference wave is detected in a zone of a base station, the transmission of the base station is stopped so that the interference wave are measured**. It is important to note that the examiner does **not** rely on the invention of Yoshimi disclosed on column 2 line 30 to column 10. On the other hand, the examiner only relies on column 1 lines 60-67 and column 2 lines 1-12 of Yoshimi **as an evidence that there exists a teaching of stopping transmission of radio signal for the purpose of detecting an interference signal** (see "it is general practice in the prior art..." at column 2 lines 1-3).

Applicant further argues that the admitted prior art fails to teach stopping transmission of radio signal for the purpose of detecting an interference signal (see applicant's response, page 5). In response, Yoshimi does disclose stopping transmission of radio signal for the purpose of detecting an interference signal as discussed above. Therefore, the combination of Yoshimi and the admitted prior art does teach the claimed limitation. Hence, applicant's argument is moot.

For all the reasons above, the examiner contends that the rejection to claims 1-2 and 12-13 is proper.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-9051, (for formal communications intended for entry)

Or:

(703) 305-9508 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Vo, whose telephone number is (703) 308-6728. The Examiner can normally be reached on Tuesday-Friday from 8:00 AM - 5:30 PM. The examiner can also be reached on alternate Monday.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Nguyen Vo
March 12, 2001

NGUYEN T. VO
PRIMARY EXAMINER